

**CWA NPDES Notice of Violations (NOVs)**

**Date: 12/3/2014**

**ROUTING AND TRANSMITTAL SLIP**

TO: (Name, office symbol, room number, building, Agency/Post)

1. **Enforcement Officer/Workgroup Lead**

2. **Mattox (Tracking)**

3. **White/HORSEY**

4. **S. Armor**

5. **Sr. Attorney and/or Chief OWLs**

6. **Ricks/Diaz**

7. **Marcus/Giattina**

8. **White (Mailing/e-filing) / Mattox (Copy)**

9. **Enforcement Officer**

	Action	File	Note and Return
X	Approval	For Clearance	Per Conversation
	As Requested	For Correction	Prepare Reply
	Circulate	For Your Information	See Me
	Comment	Investigate	Signature
	Coordination	Justify	

From: (Name, org. symbol, Agency/Post)

**Pamala Myers**

Room No.—Bldg.

Phone No.

**2-9421**

DO NOT use this form as a RECORD of approvals, concurrences, disposals, clearances, and similar actions.

**REMARKS:**

Attorney is Suzanne Armor. 2-9701. Supplemental NOV  
 Package needs enclosures/legal inserts. Thank } now included.  
 12/8/14

Electronic Version Saved at: T:\NPEB\Pretreatment\Enf-Comp\TN\Protech Metal Fin, LLC\_TN / Protech - Pretreatment NOV Violating 14 Permit - draft - SA - 11252014.docx.

Contacted State Agency: YN Date: 12/5/14

Who at State: TDEC Jessica Murphy  
 (Maurice sent email)

Route in green folder





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

DEC 16 2014

CERTIFIED MAIL 7012 1010 0001 8097 2706  
RETURN RECEIPT REQUESTED

James C. Wright, Esq.  
Butler Vines & Babb  
2701 Kingston Pike  
Knoxville, Tennessee 37919

Re: Supplemental Notice of Violation, Protech Metal Finishing, LLC  
Pretreatment Industrial Wastewater Discharge Permit No.: 2011-003, issued by  
TASS-Niles Ferry Waste Water Treatment Facility  
National Pollutant Discharge Elimination System Permit No.: TN0058238

Dear Mr. Wright:

On November 17, 2014, the U.S. Environmental Protection Agency Region 4 was informed by the Tennessee Department of Environment and Conservation's (TDEC) Water Resources Division that a recent compliance inspection performed by Tellico Area Services Systems (TASS) documented violations of the local limits established in Industrial Wastewater Discharge Permit No.: 2011-003 (Permit) for Protech Metal Finishing, LLC's (Protech) facility located at 120 Tellico Port Road, Vonore, Monroe County, Tennessee (Facility). Specifically, on September 9, 2014, a compliance sample taken by TASS at the Facility indicated that Protech exceeded its permitted effluent limits for cadmium (1.28 mg/L v. 0.074 mg/L) and nickel (0.434 mg/L v. 0.408 mg/L). A copy of TASS's Semi-Annual Report documenting the cadmium and nickel local limit exceedances is enclosed as Attachment A and a copy of the Notice of Violation issued by TASS to Protech on October 10, 2014, is enclosed as Attachment B. In addition, the EPA has identified that at the reported level of 1.28 mg/L, Protech also exceeded the daily maximum categorical limit for cadmium of 0.11 mg/L, established under 40 C.F.R. § 433.17(a).

Information obtained from TASS indicated this violation occurred while Protech staff were processing cadmium rinse waters, which had previously been stored in Building #2 of the Facility. Although this practice may be within Protech's operational purview for disposal, exceeding permit limits is a violation of the requirements of Sections 301 and 307(d) of the Clean Water Act (CWA), 33 U.S.C. §§ 1311 and 1317(d); the regulations promulgated thereunder at 40 C.F.R. Parts 403, and 433; the State of Tennessee pretreatment regulations at Tenn. Comp. R. & Regs. Ch. 0400-40-14; and Permit No.: 2011-003 issued to the Facility by TASS, effective December 15, 2011, expiring December 14, 2015.

The EPA's information and subsequent investigative efforts have therefore revealed that Protech failed to comply with the requirements of the pretreatment regulations at 40 C.F.R. Parts 403 and 433, the State of Tennessee pretreatment regulations and the Facility's Permit. Specifically, the EPA has identified the following violations:

Failure to comply with permit conditions.

Pursuant to 40 C.F.R. §403.8(f), an industrial user holding a permit containing pretreatment standards and requirements must comply with its permit. The Facility's Permit includes the following pretreatment standards and requirements:

- (a) Daily maximum limit for cadmium of 0.074 mg/L; and
- (b) Daily maximum limit for nickel of 0.408 mg/L.

Protech violated its effluent limits for both cadmium and nickel by discharging cadmium at a level of 1.28 mg/L and nickel at a level of 0.434 mg/L on September 9, 2014.


Therefore, the EPA alleges that your client, Protech, is in violation of Sections 301 and 307(d) of the CWA, 33 U.S.C. §§ 1311 and 1317(d). The violations identified in this Notice of Violation (NOV) and any other potential violations are subject to enforcement actions pursuant to Section 309 of the CWA, 33 U.S.C. § 1319, including the issuance of compliance orders, the assessment of administrative penalties and/or the initiation of civil or criminal actions.

The EPA requests that Protech respond in writing to this NOV within 14 days of receipt of this letter. The response should provide all relevant information with supporting documentation pertaining to the violations, including the circumstances under which these violations occurred and any actions taken by Protech to remedy such violations.

Please be aware that the EPA may use information provided in response to this NOV in any enforcement proceeding related to this matter. Failure to provide a response may result in a unilateral enforcement action against Protech. Notwithstanding a response from Protech, the EPA retains the right to bring further enforcement action under Section 309 of the CWA, 33 U.S.C. § 1319, for the violations cited therein or for any other violation of the CWA.

Should you have any questions or concerns, please contact Ms. Suzanne K. Armor, Associate Regional Counsel, at (404) 562-9701.

Sincerely,



James D. Giattina  
Director  
Water Protection Division

Enclosures

cc: Ariel Wessel-Fuss  
Tennessee Department of Environment and Conservation

Mr. Scott Home, Pretreatment Coordinator  
Tellico Area Services Systems

## **ATTACHMENT A**





phone 11/17/14

Tennessee Department of Environment and Conservation  
Division of Water Resources  
401 Church Street, 6<sup>th</sup> Floor L & C Annex  
Nashville, TN 37243-1534  
(615) 532-0625


## CONTROL AUTHORITY PRETREATMENT SEMI-ANNUAL/ANNUAL REPORT

<b>Control Authority Identification:</b>				
Control Authority Name :		Tellico Area Services System (TASS)		
Report Date :		10/24/2014		
Reporting Period Covered by this report		From	4/1/2014	To 9/30/2014
Reporting Period Covered by previous report		From	10/1/2013	To 3/31/2013

Name of Wastewater Treatment Plant(s)	NPDES Permit No.
1. Niles Ferry Wastewater Treatment Plant	TN0058238
2.	
3.	
4.	
5.	

IN DEPT OF ENVIRONMENT  
AND CONSERVATION  
OCT 27 2014  
DIV OF WATER RESOURCES  
RECEIVED

Person to contact concerning this report: Mr. Scott Horne		Title or Position: Pretreatment Coordinator	
Mailing Address: P.O. Box 495		City: Athens	State: TN Zip: 37371-0495
Phone number(s): 423-506-0984		E-mail (optional): rshorne@comcast.net	
Fax number (optional):		Website (optional):	

<b>Report Certification:</b> (must be signed in accordance with the requirements of Tennessee Rule 1200-4-14-.12(13))	
"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person(s) who manage the system or are directly responsible for gathering the information, the submitted information is to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations. A false statement is subject to the penalties of perjury."	
Name: (print or type) Mark Clinton	Title: (print or type) Superintendent
Signature: 	Date: 10-24-14

### Pretreatment – Narrative Summary

There were no Protection Criteria violations during the period.

Pass-thru limits for Silver and Phenols were exceeded during the period. A Silver concentration of 0.0024 mg/L exceeded the Pass-thru limit of 0.00050 mg/L while Total Phenol (0.0905 mg/L) exceeded the limit of 0.050 mg/L. Both parameters were well below Protection Criteria limits. The Pretreatment Coordinator will monitor influent values for on a monthly basis to determine any increased loadings onto the wwtp.

DuPont Ethanol violated the Molybdenum Local Limit on 9/19/2014 during semi-annual metals sampling. DuPont has resampled at various locations within their facility to locate the source so that it may be eliminated. Those results are pending. An NOV was issued to DuPont for this event. DuPont is not required to monitor for Molybdenum and as a consequence this data point is the only data point generated during the past nine months. DuPont is in SNC (Chronic and TRC) as a result of this circumstance.

ProTech exceeded the Cadmium and Nickel limit during compliance monitoring on 9/19/2014 and received a Compliance Order (install a metering manhole) and a fine (\$2500) which have been appealed to the Control Authority. The Cadmium violation (1.28 mg/L / 0.074 mg/L) occurred as ProTech staff were processing Cadmium rinse waters which had previously been stored in building #2. The Nickel violation (0.434 mg/L / 0.408 mg/L) was noted in the same NOV. Resample values by the PC were within limits. ProTech is in SNC (Chronic and TRC) for Cadmium and will be published in the local paper.

ProTech was served a "Notice of Potential Civil Violations and Opportunity to Show Cause" in a document dated September 16, 2014 by EPA. The outcome of this notice and the Compliance Order issued by TASS for violations during this period are yet to be finalized and will be reported in future SARs.



## Form 1a

### Results of Sampling at Control Authority

Sample Date(s): 9/4/2014

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6
Parameter	Influent (mg/l)	Protection criteria (mg/l)	Effluent (mg/l)	Pass Through Limit (mg/l)	Removal Rate (%)
Copper (Cu)	0.0278	0.50	<0.020	0.080	>28%
Chromium III	0.0303	~	<0.00750	~	>75%
Chromium VI	<0.0250	~	<0.0250	~	~
Chromium Total	0.0303	0.375	<0.00750	0.060	>75%
Nickel (Ni)	0.0213	0.273	0.0205	0.180	4%
Cadmium (Cd)	0.0188	0.033	<0.00750	0.005	60%
Lead (Pb)	<0.020	0.250	<0.020	0.045	~
Mercury (Hg)	<0.00010	0.0017	<0.00010	0.0004	~
Silver (Ag)	<0.00240	0.294	0.00240	0.0005	~
Zinc (Zn)	0.473	1.053	0.182	0.20	62%
Cyanide (Cn)	0.00787	0.061	<0.0050	0.023	36%
Phenols, Total	0.0421	0.455	0.0905	0.050	~
Toluene					
Benzene					
1,1,1-trichloroethane					
Ethylbenzene					
Carbon tetrachloride					
Chloroform					
Tetrachloroethylene					
Trichloroethylene					
1,2 trans dichloroethylene					
Methylene chloride					
Naphthalene					
Total phthalates					

Include any parameters sampled in the reporting period including the routine semiannual sampling as well as the effluent sampling specified in Section III of the National Pollution Discharge Elimination System (NPDES) permit, including applicable toxic organics (i.e., toluene, benzene, 1,1,1 - trichloroethane and chloroform).

**You must sample for all parameters in your NPDES Permit at the required frequency (See Part 3 of your NPDES permit for required pretreatment monitoring).**

**Form 1b****Biosolids**

What does the Control Authority do with the sludge/biosolids? Landfill

If biosolids are land-applied, please fill out the following Table.

Parameter	Biosolids Concentration (mg/kg)	503 Table 1 limits Ceiling Concentration (mg/kg)	503 Table 3 limits Monthly Ave. (mg/kg)
Arsenic	<8.95	75	41
Cadmium	26	85	39
Copper	412	4300	1500
Lead	<11.9	840	300
Mercury	0.507	57	17
Molybdenum	<8.95	75	N/A
Nickel	144	420	420
Selenium	<11.9	100	100
Zinc	2710	7500	2800

Were there any samples of biosolids that exceeded the ceiling concentrations from 40 CFR Part 503 (Table 1)? No

What date(s)? Sample date 2/3/2014

**Form 2****Report of Upsets, Protection Criteria Violations, Biosolids Violations and  
Pass-Through Limit Violations**

Type of Incident	Date	Explanation of Incidents	Corrective Action Taken
Silver	9/4/2014	*See Narrative Summary	resampled
Phenols	9/4/2014	*See Narrative Summary	resampled

\* Give a detailed explanation of the causes of the incident and the corrective action taken to date. The corrective action should also include any plans the Control Authority has to identify or correct the problem. If there is not enough room on this form, include the information in the Narrative Summary.

### Form 3 Industrial User Summary

Industrial User Name and Mailing Address	Contact (indicate Mr./Ms.) Phone #/Fax# and email address (optional)	Type of Industry **	Actual Flow (GPD)
Poly One 245 Avecor Drive Vonore, TN 37885	Mr. Richard Flake H S & E Coordinator 423-884-1415, Phone	Dye Pellets SN	26000
ProTech, Inc. 120 Tellico Port Road Vonore, TN 37885	Mr. Mike Huddleston Owner 423-884-2000, Phone	Metal Plating 40 CFR 433	11700
Volunteer Fastener and Supply 122 Tellico Port Road Vonore, TN 37885	Mr. Bo Conner Owner 423-884-2340, Phone	Metal Plating 40 CFR 433	16640
DuPont Cellulosic Ethanol 200 Industrial Drive Vonore, TN, 37885	Mr. Adrian Ridley EH&S Coordinator 423-933-3841, Phone	Cellulosic Ethanol SN	56500

**\*\*If a Significant Industrial User (SIU) is Categorical, list the applicable category (i.e., metal finisher, electroplater, leather tanner, etc.). Non-categorical SIUs should be listed as SN (Significant Non-Categorical), with a description of the process (i.e., SN-landfill or SN-hospital). All Non-significant Categorical Industrial Users (NSCIU) should be listed on the form and identified as an NSCIU. Information on NSCIUs is required on Form 3, but not required on any other form in this report. Industries that are not significant and not categorical are not required to be listed in this report. However, if you wish to list them on this form, please identify them as "Other."**

<b>Form 4</b> <b>Industrial User Monitoring Report</b>				
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>	<b>Column 5</b>
<b>Industrial User Name and Mailing Address</b>	<b>Control Authority Inspection Date(s)</b>	<b>Control Authority Sampling Frequency</b>	<b>Control Authority Sampling Date(s)</b>	<b>SIU Self-Monitoring Dates(s)</b>
Poly One 245 Avecor Drive Vonore, TN 37885	9/5/2014	1/6 mo.	9/5/2014	8/21/2014
ProTech, Inc. 120 Tellico Port Road Vonore, TN 37885	9/9/2014	1/6 mo.	9/9/2014	8/22/2014
Volunteer Fastener and Supply 122 Tellico Port Road Vonore, TN 37885	8/28/2014	1/6 mo.	8/28/2014	7/17/2014
DuPont Cellulosic Ethanol 200 Industrial Drive Vonore, TN, 37885	9/4/2014	1/6 mo.	9/4/2014	Metals 9/19/2014 BOD, TSS, TKN weekly

## Form 5a Industrial User Compliance Report

\*Semi-annual reporters only must complete this form  
(For semi-annual reporting period April 1, 2014– September 30, 2014 )

Column 1	Column 2		Column 3		Column 4		Column 5		Column 6	
	January – March		April – June		July – September		January – June		April – September	
Industrial User	Parameters Violated (conc/limit)	Total Number of Samples	Parameters Violated (conc/limit)	Total Number of Samples	Parameters Violated (conc/limit)	Total Number of Samples	Chronic Viol. (Yes or No)	TRC Viol. (Yes or No)	Chronic Viol. (Yes or No)	TRC Viol. (Yes or No)
DuPont Ethanol Molybdenum	0	0	0	0	1.04/0.026 mg/L	1	0	0	1	1
ProTech Cadmium	0	2	0	0	1.28/0.074 mg/L	2	0	0	1	1
ProTech Nickel	0	2	0	0	0.434/0.408 mg/L	2	0	0	0	0

Use one line for each parameter for each SIU with violations, showing whether a Technical Review Criteria (TRC) or Chronic Violation resulted: Yes for violations resulting in TRC or Chronic – both are Significant Non-Compliance (SNC) or No for violations not resulting in TRC/Chronic Violations. Please note that monthly average and daily maximum for a specific

## Form 6

### Enforcement and Compliance

Industrial User	Verbal Warnings (1) (Enter Number)	Notice of Violation (Enter Number)	Compliance Schedule Conformity (2)	Administrative Orders (Enter Number)	Number of Violations Resolved
DuPont Ethanol	0	1	0	0	1
ProTech	0	1	0	1	0

**1 Verbal warnings include phone calls and site visit discussions.**

**2 Use the following code:**

In compliance with schedule = Yes

Out of compliance with schedule = No

Facility not on a schedule = NA

**Note: Describe compliance schedule in a footnote or in the Narrative Summary, giving the date issued, the violation and due dates for major milestones.**

## Form 7

### Pretreatment Performance Summary

**I. General Information**

Control Authority Name: Tellico Area Services System (TASS)		
Address: P.O. Box 495		City: Athens, TN 37371-0495
Contact Person: Mr. Scott Horne		Contact Phone Number: 423-506-0984
Reporting Period: 4/1/2014 to 9/30/2014		NPDES Number: TN0058238
Number of Categorical SIUs:	Number of Non-Categorical SIUs:	Total Number of SIUs:
2	2	4

**II. Significant Industrial Compliance**

	SIUs	
	Categorical	Non- Categorical
1) No. of SIUs in Significant Non-compliance (SNC)	1	1
2) Reasons for Significant Non-compliance (SNC)	N/A	N/A
a) In SNC for Violations of pretreatment standards	1	1
b) In SNC for Reporting Violations	0	0
c) In SNC for Compliance Schedule Violations	0	0
d) In SNC for Other (explain in Narrative Summary)	0	0

**III. Monitoring**

	SIUs	
	Categorical	Non- Categorical
1) Facilities Monitored by CA (samples analyzed for all SIU permit parameters):		
a) No. of SIUs Sampled by the Control Authority (CA)	2	2
b) No. of SIUs Inspected by the CA	2	2
2) Total Monitoring Events:	4	4
a) No. of Samples by the CA	2	2
b) No. of Inspections by the CA	2	2
3) How many SIUs do not have a current control mechanism (permit)	0	0

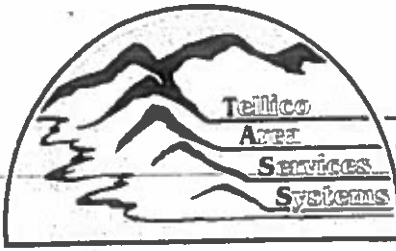
**IV. Enforcement**

	SIUs	
	Categorical	Non- Categorical
1) SIUs Subject to Any Enforcement Actions (include verbal warnings)	1	1
2) SIUs Listed in the Newspaper for SNC in this period	0	0
3) Notices of Violations Issued *	1	1
4) Administrative Orders Issued *	0	0
5) No. of SIUs on Compliance Schedules (anytime in period)	0	0
6) Suits Filed:		
a) Civil Suits *	0	0
b) Criminal Suits *	0	0
7) Other Actions Taken (sewer bans, etc. but not verbals) *	0	0
8) Penalties Collected: (not surcharges)		
a) No. of SIUs from whom penalties were collected	0	0
b) Total Dollars (\$) collected in the period	0	0
* Enter the number of ACTIONS, not the number of SIUs		



## **ATTACHMENT B**





P.O. BOX 277 VONORE, TENNESSEE 37885 PHONE (423) 884-6400 OR (865) 856-3530

October 10, 2014

Mr. Mike Huddleston  
ProTech Metal Finishing, Inc.  
120 Tellico Port Road  
Vonore, TN 37885

Re: Effluent Metals Violation  
Compliance Order, October 2014

Dear Mr. Huddleston,

On September 9, 2014, a compliance sample taken by the Pretreatment Coordinator for TASS documented violations of the Local Limits established in the Discharge Permit for ProTech Metal Finishing. Specifically, the limits for Cadmium (1.28 mg/L vs. 0.074 mg/L) and Nickle (0.434 mg/L vs. 0.408 mg/L) were exceeded.

During the June 2012 TASS Board of Directors meeting, you appeared before the Board and asked that a previous fine of \$2,500.00 and a requirement to install a metering manhole be withdrawn by Board action. The Board of Directors subsequently agreed to reduce the fine and defer the metering manhole requirement but informed you any additional violations would initiate enforcement action to include a \$2,500.00 fine and a requirement to install a metering manhole.

In light of the recent violations of the Industrial User Discharge Permit, ProTech will be assessed a fine of \$2,500.00 which shall be due and payable within 90 days of receipt of this Order. Additionally, the requirement to install a metering manhole will be reinstituted. The previous conditions for installing the manhole from the April 12, 2012 letter are provided below:

"Included as an attachment to this order is a quotation and description for a metering manhole that is commercially available. In the event ProTech chooses to install their own metering manhole, they must submit plans and drawings prepared and stamped by a licensed Professional Engineer to TASS for approval."

In any event, the manhole shall be installed no later than January 15, 2015. Failure to meet this deadline will result in a \$4,000.00 fine for every month the manhole is not installed and

*"An Equal Opportunity Provider"*

operational. In the event the manhole is not installed by April 15, 2015, water and sewer service to your facility at 120 Tellico Port Road will be terminated.

If you wish to contest this Order, you may appear at the TASS Board of Directors meeting on October 21, 2014 at 12 noon to present your argument to the TASS Board. Your failure to appear will serve as an acknowledgement of this Order.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Clinton", with a stylized flourish at the end.

Mark Clinton  
Superintendent  
Tellico Area Services System



1.877.435.8637 Toll-Free Voice  
1.866.435.8637 Toll-Free Fax  
www.tracomfrp.com  
sales@tracomfrp.com

Quotation # 033012LC

TO:

SHIP TO:

ATTN:

PROJECT: Pro-tech- Vonore, TN

DATE: 3/30/12

PREVAILING FREIGHT RATES AT THE TIME OF SHIPMENT WILL APPLY

[illegible]

**Prices:** F.O.B. Factory, Freight Prepaid and Add, and Valid Only in the Quantities Shown.

Mfg. 4-6 weeks for flumes. 6-8 weeks for manholes, buildings, consoles, weir boxes and custom products.  
Lead-time: Actual lead-times may be longer or shorter due to order volume / size or component lead-time(s) and are ARO  
of approved submittals.

Proposal: In US dollars. Valid for thirty (30) days from the date of quotation and only with the FULL, UNALTERED ACCEPTANCE of the attached terms and conditions.

**Terms:** **Net 30 from date of shipment to approved accounts. Retainage is not allowed.**  
Failure to pay within the terms will suspend the warranty and require a warranty reactivation fee.

BY: Lindsey Case for  
Tim Kazmier of  
Kazmier & Associates





6575-A Industrial Way - Alpharetta, Georgia 30004 - USA

1.977.435.8637 Toll-Free Voice  
1.866.435.8637 Toll-Free Fax  
www.tracomfrp.com  
sales@tracomfrp.com

**TERMS AND CONDITIONS OF SALE:**

1. **BUYER'S TERMS AND CONDITIONS:** Under no conditions shall any term or condition on Buyer's business form(s), that are inconsistent with the terms and conditions of TRACOM as expressed herein, be considered valid or part of any resulting contract, unless expressly agreed to in writing at the time of quotation by an authorized employee of TRACOM (the Seller).
2. **GOVERNING LAW, VENUE, AND JURISDICTION:** All purchase agreements shall be governed by and construed under the Uniform Commercial Code as adopted by the State of Georgia as effective and in force on the date of order acceptance. Both the Seller and the Buyer shall agree to the sole jurisdiction of the courts of the State of Georgia for any suit brought by either party.
3. **ACCEPTANCE OF PURCHASE ORDER:** No purchase order is considered to be valid unless accepted by an authorized employee of the Seller at its primary office location. The Seller may accept or decline purchase orders at its convenience, without recourse by the Buyer.
4. **FREIGHT:** All prices are in U.S. dollars, F.O.B. FACTORY with transportation charges prepaid and added, and valid only in the quantities quoted, unless expressly agreed to in writing at the time of quotation by an authorized employee of the Seller. The purchaser agrees that freight estimates given the Seller's employees are estimates only and that the purchaser is solely responsible for the payment of said freight charges unless expressly agreed to in writing at the time of quotation by an authorized employee of the Seller. The Buyer shall reimburse the Seller for all freight cost forthwith upon demand.
5. **TIME OF SHIPMENT:** The Seller provides estimated delivery dates only for the convenience of the customer. The Seller shall not be liable for any delay or failure to produce, process, ship, or deliver occasioned by Force Majeure to include all circumstance or actions beyond the Seller's direct and immediate control. The Seller is not relieved from making shipment or the Buyer from accepting delivery at the agreed upon price when the cause interfering with delivery is removed. If shipment of completed equipment or any completed part is delayed due to the Buyer's request, the Buyer is expected to make payment of all periodic or partial invoices. Risk of loss shall pass to the Buyer upon delivery to the carrier on shipments made F.O.B. Factory.
6. **BANKRUPTCY:** In the event that (a) the Buyer files a voluntary petition initiating any proceedings under the United States Bankruptcy Court with respect to itself; (b) Any involuntary petition initiating a proceeding under the United States Bankruptcy Court is filed against the Buyer and such petition is not dismissed within thirty (30) days; (c) The Buyer is adjudicated as bankrupt; (d) The Buyer makes an assignment for the benefit of its creditors or takes the benefits of any insolvency laws; (e) A receiver is appointed for the Buyer or for a substantial part of its property and such appointment is not discharged within sixty (60) days; (f) The Buyer shall admit in writing its inability to pay its debts generally as they come due; (g) Any governmental body or agency condemns or requisitions any significant asset of the Buyer; (h) The Buyer fails to post security requested by the Seller within fifteen (15) days after the request; or (i) the Buyer commits any breach of contract and fails to remedy such breach within seven (7) days after giving notice to thereof to the Seller, then in any and all such cases the Seller may by notice to the Buyer in writing, fax, cable or telegram cancel any existing or resulting contract so far as any future performance by the Seller is concerned but without prejudice to the rights and remedies provided by the State of Georgia to either party arising of any antecedent performance or breach.
7. **EXCLUSION OF CONSEQUENTIAL DAMAGES:** The Buyer specifically understands and agrees that under no circumstances shall the Seller be held liable for economic, special, incidental, or consequential damages or losses of any kind whatsoever, including but not limited to, loss of anticipated profits and any other loss caused by reason of the non-operation or late arrival of the goods. This exclusion is applicable to claims for breach of warranty, tortious conduct or any other cause of action against the Seller.
8. **TORT LIABILITY:** The Buyer specifically understands and agrees that the Seller and its officers, agents, and employees shall not be liable in tort whether based on negligence, strict liability, or any other theory of tort liability- for any action or failure to act in respect to the manufacturer, preparation for sale, sale, delivery, or servicing of the product(s). It is the parties' intent to absolve and protect the Seller and Seller's officers, agents, and employees from any and all tort liability.
9. **PRICES:** The price of goods shall be valid only as long as the term expressly stated on the quotation. In the event that the period of validity is not expressly stated in the quotation, the quotation shall be assumed to be in effect for thirty (30) days from the date of the offering.
10. **CANCELLATION:** The Buyer may cancel their order by written notice at any time, provided that the Buyer pays cancellation charges based on the percentage of work completed. Orders cancelled after release to production shall incur a minimum non-refundable cancellation fee of 10% (\$100 minimum).
11. **RESTOCKING:** Those items deemed by the Seller to be either stock in nature or items with sufficient potential for resale may be considered for return by the Seller. Restocking charges shall be 15% for all stock items. The Seller shall be the sole determining party as to the stock nature or salability of its items. As such, restocking fees shall be determined solely by the Seller. Due to their customer nature, packaged metering manholes, buildings, and weir boxes shall not be returnable, unless with prior written consent of the Seller. Flumes exceeding common sizes (12" - parshall, 18" - Palmer-Bowlius, 1.5' - H-flumes, Extra Large 60 Degree - Trapezoidal, 36" L - Cutthroat, 100mm - RBC) or flumes with optional equipment/accessories may be deemed to be custom in nature or of a sufficiently small market that they may be non-returnable or subject to additional restocking fees. The Buyer agrees to payment of all restocking or cancellation fees within the credit terms extended by the Seller. No items shall be returned by the Buyer without the express written consent of the Seller. The Buyer shall be responsible for the prepayment of all freight charges incurred during the return of all restocked items. Restocking fees shall not be applicable to freight or service charges already incurred by the Seller.
12. **THE EXTENSION OF CREDIT:** Credit shall be provided to the Purchaser solely at the discretion of the Seller. The Seller reserves the right to change payment terms at any time prior to shipment and/or invoicing.
13. **CREDIT, NON WAIVER:** If the Buyer fails to fulfill the terms of payment in every respect, the Seller is not obligated to make delivery and may resort to the remedies provided under the law or herein. The Seller reserves the right, previous to making delivery, to require from the Buyer satisfactory security performance of the Buyer's obligations.



Customer  
Name  
Fax  
E-mail

Q7  
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app. 000000



1.877.435.8637 Toll-Free Voice  
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www.tracomfrp.com  
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6575-A Industrial Way - Alpharetta, Georgia 30004 - USA

14. **ORDER DISCREPANCY:** In the event that the Buyer discovers any discrepancies with the order, receives any incorrect merchandise, or finds that goods are damaged, the Buyer agrees to complete and return the Order Discrepancy Form (OD-F) to the Seller within twenty-four (24) hours of receipt. The Buyer shall be solely responsible for contacting and making arrangements with the freight company for inspection of the goods, and if necessary filing a claim for damage. The Buyer further agrees to notify the Seller within ten (10) days of receipt of any shortage or inaccuracy in the order. In the event that the Buyer does not notify the Seller within the ten (10) day period, any repair, replacement, or correction of the delivered goods shall be at the discretion and pleasure of the Seller. The Buyer understands and agrees that the Seller is not responsible for the correction of order discrepancies brought to the Seller's attention after the ten (10) day notification period has passed. The Buyer shall be liable, after the notification period, for any and all freight charges to the Seller's facility in the event that the Seller allows repair, replacement, or correction. The Seller's Standard Statement of Warranty (W-F) shall govern warranty repair or replacement of merchandise.
15. **INVOICING AND BILLING:** For purposes of invoicing and billing, each shipment hereunder shall be treated as a separate and independent contract.
- THE INVOICE DUE DATE SHALL BE CALCULATED FROM THE DATE THE TIME IS TRANSFERRED TO THE FREIGHT CARRIER (OR THE DATE OF COMPLETION IF THE CUSTOMER IS TO ARRANGE PICK-UP). NO OTHER TIMEFRAME SHALL APPLY.
- POSTDATED, UNSIGNED, OR INCORRECT PAYMENTS SHALL NOT BE ACCEPTABLE.
- Payment must be received at TRACOM, Inc.'s office by the due date of the invoice. Payment must be correct, complete, and unencumbered. Interest penalties shall accrue until the payment is correct, complete, and unencumbered.
16. **RETAINAGE:** As a standard, the Seller does not accept retainage on any order issued by the Purchaser. In the event that the Seller accepts retainage, acceptance must be in writing and accompanied by a definite and mutually agreed upon method of execution to be considered to be in effect.
17. **LATE PAYMENT AND COLLECTION:** The Buyer agrees to pay in full any and all late charges as outlined below and in any manner reasonably requested by the Seller or the Seller's agents:
- Accounts will accrue late charges in the amount of 1 1/2 percent per month (or portion thereof) that the complete sale price (including freight) has not been executed
  - All delinquent accounts shall be forwarded to Dun and Bradstreet Receivables Management Service for collection
  - The Purchaser shall be solely responsible for any and all outstanding invoice amount plus any and all reasonable collection charges as stated herein.
  - Collection charges shall be determined by the following fee schedule:
- | <u>Collection Rate</u> | <u>Age (Days) of Oldest Invoice</u> |
|------------------------|-------------------------------------|
| 8%                     | 1-119                               |
| 14%                    | 120-179                             |
| 22%                    | 180-269                             |
| 30%                    | 270-359                             |
| 33 1/3%                | 360 plus                            |
- The minimum charge is \$100.00.
  - In the event that attorney intervention is required in the collection of the account, additional charges set by Dun and Bradstreet will apply.
18. **WARRANTY:** Seller warrants equipment per the Statement of Warranty Form in effect at the time of order. Damage during transit to the point of delivery must be claimed within the time frame and in the manner expressed in the Order Discrepancy Form (OD-F) provided with the packing list. Failure to file claims within the time frame and in the manner expressed in the Order Discrepancy Form may result in claims being waived. Damage due to improper storage, subsequent reshipment, transportation, or movement of the unit shall not be warranted.

FAILURE TO PAY WITHIN THE PAYMENT TERMS EXTENDED BY TRACOM WILL SUSPEND THE TERMS OF THE WARRANTY AND SHALL RESULT IN THE NOTIFICATION OF ALL AFFECTED PARTIES.

Should payment become greater than 28 days past due, reestablishment of the warranty shall require a warranty fee of 1% of the invoice amount per week (or portion thereof) beyond 28 days past due.



